

**TO:** Chief Administrator  
**FROM:** Investigator 1  
**DATE:** September 13, 2017  
**REFERENCE:** Log #1071168, U #14-030 - RD# HX-XXXXXX

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**INCIDENT DATE/TIME:** August 24, 2014 at approximately 8:58 p.m.

**LOCATION:** XXX East 80<sup>th</sup> Street (At the mouth of the north/south alley between Ingleside Avenue and Ellis Avenue) Chicago, Illinois

**INVOLVED OFFICER:** Officer A.; Star #XXXXXX; Employee #XXXXXX; Unit XXX; White male; On duty; Beat XX; CPD Start Date: June 3, 2013

**WEAPON:** Springfield Armory M1A, Model XD, 9mm caliber, semi-automatic handgun, Serial #XXXXXX; City Registration #XXXXXXXX; FOID #XXXXXX; Winchester 9mm caliber ammunition; Fired eleven (11) times and then a tactical reload post shooting.

**INJURIES:** None reported

**WITNESS OFFICER #1:** Officer B.; Star #XXXXXX; Employee #XXXXXX; Unit 044; White male; On duty; Beat XXXXX; CPD Start Date: November 4, 2013

**WEAPON:** Did not fire

**INJURIES:** None reported

**WITNESS OFFICER #2:** Officer C; Star #XXXXXX; Employee #113657; Unit 044; White male; On duty; Beat XXXXX; CPD Start Date: November 25, 2013

**WEAPON:** Did not fire

**INJURIES:** None reported

**WITNESS OFFICER #3:** Officer D; Star #XXXX; Employee #XXXXXX; Unit 044; Hispanic male; On duty; Beat XXXXX; CPD Start Date: November 4, 2013

**WEAPON:** Did not fire

**INJURIES:** None reported

**INVOLVED CIVILIAN:** Subject 1; African-American male; DOB: XXXXXXXX XX, XXXX; XXXX South Ingleside Ave., Chicago, Illinois; IR #XXXXXX

**WEAPON:** Kel-Tec, 9mm semi-automatic pistol, 3" Barrel, Black Matte Finish, Serial #XXXX; Weapon was found in the slide-lock position with an empty chamber and an empty 7-shot capacity magazine.

**INJURIES:** Fatal with multiple gunshot wounds to legs, chest, abdomen, left arm, and back.

## SUMMARY OF INCIDENT

On August 24, 2014, at approximately 8:50 p.m., Chicago Police Officer A (Officer A), Officer C (Officer C), Officer D (Officer D), and Officer B (Officer B) were on foot patrol (beat XXXXX) near Ingleside Avenue and 79<sup>th</sup> Street. The officers were alerted by several civilians regarding a possible fight with guns near East 80<sup>th</sup> Street and Ingleside Avenue. Officer A and Officer C proceeded through a gangway and into the alley behind Ingleside Avenue<sup>1</sup>, while Officer D and Officer B continued southbound on Ingleside Avenue towards 80<sup>th</sup> Street. A subject, now known as Subject 1 (Subject 1), was seen by Officer A firing a handgun in a westerly direction. Officer A did not know who or what Subject 1 was shooting at. Subject 1 fired his handgun as he backpedaled through the southern mouth of the alley on 80<sup>th</sup> Street. Officer A and Officer C reported that they viewed muzzle flashes and heard multiple gunshots as they continued south towards the mouth of the alley. Shortly thereafter, Officer A, whose weapon was drawn, had a face-to-face encounter with Subject 1. During that encounter, Subject 1 turned towards Officer A with his weapon raised. Officer A responded by firing his weapon at Subject 1, who was struck several times. Medical Personnel at Advocate Christ Medical Hospital pronounced Subject 1 dead later that same evening.

Near the mouth of the alley on East 80<sup>th</sup> Street, Officers found Civilian 1, AKA Civilian 1, with gunshot wounds and unresponsive. Medical Personnel pronounced Civilian 1 dead at the scene. From information obtained and evidence recovered that evening, it appeared that Subject 1 shot Civilian 1 in an armed confrontation just prior to Officer A's encounter with Subject 1.

## INVESTIGATION

IPRA obtained relevant documentary and forensic evidence associated with this incident. Additionally, IPRA interviewed civilian witnesses, witness officers, and the involved shooting officer.

The following is a summary of the interviews and evidence obtained during this investigation:

### Officer Interviews

**IPRA interviewed Officer A** on August 26, 2014. Officer A stated that, on August 24, 2014, he was on foot patrol with Officer B, Officer D, and Officer C. Officer A stated that he was at 79<sup>th</sup> Street and Ingleside Avenue discussing a parking ticket with a citizen when he and the other three (3) officers in the group were approached by some unknown citizens. The citizens informed the officers of a possible fight with firearms that was about to happen in the middle of the block on Ingleside Avenue. After hearing about this possible fight, all four officers decided to proceed south on Ingleside Avenue. Officer A and Officer B walked south down the sidewalk on the east side of the street and Officer C and Officer D were further west towards the middle of the street. Officer A said the officers encountered a group of individuals about mid-block on the east sidewalk. Officer A stated that as he approached the group he noticed a subject "went towards the

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<sup>1</sup> This is the north/south running alley which runs from 79<sup>th</sup> Street to 80<sup>th</sup> Street between Ingleside Avenue and Ellis Avenue.

homes, towards the alley.” Officer A and the other officers continued to check individuals coming north on the sidewalk, just saying, “hey do you have a, show me your waistband. Do you have a gun?” Then Officer A observed a group of three male subjects through a gangway to the east.<sup>2</sup> Officer A then called for one of his partner officers to come with him as he headed towards the gangway.<sup>3</sup> As Officer A entered the gangway, the three male subjects dispersed with one of the subjects heading south in the alley. Officer A attempted to follow the subject south, but he lost him when the subject disappeared into a parking area just west of the alley. At this time, Officer A heard several gunshots and looked towards the south mouth of the alley and saw “a male black with uh, with a green shirt shooting.” Additionally, Officer A stated, “. . . he’s shooting westbound but backpedaling eastbound.” According to Officer A, this all occurred approximately 30 feet away from him. At this point, Officer A drew his weapon. Officer A stated that he did not issue any verbal commands because the subject was actively discharging his firearm. Officer A responded by hurrying south towards the mouth of the alley and tactically started to “slice the pie” as he approached the mouth of the alley.<sup>4</sup> (Figure 1)

Officer A explained that at some point he could no longer “slice the pie” without exposing himself. Therefore, Officer A did a “quick peek” and exposed himself out from the protection of the building. It was at this moment that Officer A observed the subject with his weapon pointed in Officer A’s direction. Officer A relayed specifically, “[u]m at that point I was in fear for the safety of my life and I discharged my firearm.” Officer A could not recall how many shots he took, but explained, “I then uh discharged my firearm and continued doing so until I [felt] the threat was diminished.” Immediately following the shooting, Officer A did a quick canvass of the mouth of the alley and then a tactical reload.<sup>5</sup> Officer A heard Officer C state that he was behind him. Officer A then entered the street and saw, for the first time, an African-American subject down on the sidewalk just west of the alley and not moving.<sup>6</sup> Officer A observed Officer D standing by the subject and calling out the presence of a gun there. Officer A did not recall ever saying anything to the subject during or after the shooting, nor if the subject was breathing after the shooting. However, Officer A recalled finding the subject’s weapon on the ground in close proximity to the subject. When specifically asked about the shooting, Officer A stated that he shot with a two-hand grip; he fired from a stationary position; he was approximately five feet from the subject; and that the subject pointed his weapon in his direction. Officer A also recalled seeing another subject run/limp towards the corner of 80<sup>th</sup> and Ellis where the subject entered a car and drove off.<sup>7</sup> Officer A then worked towards securing the scene and waited for backup. (Atts. 42)

**IPRA** conducted a **follow-up interview with Officer A on July 31, 2017**. Officer A’s second interview was consistent with the first interview; however, certain topics, such as “slicing the pie” and the shooting sequence, were explored in greater depth. Officer A described “slicing

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<sup>2</sup> Officer A described all of the subjects as younger black males walking north in the alley.

<sup>3</sup> Officer A indicated during the interview that he was aware of Officer C following him.

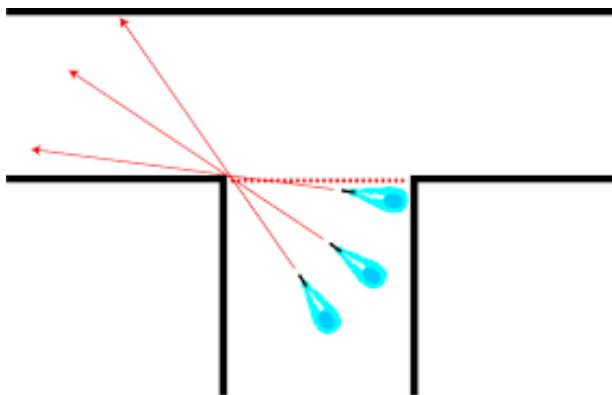
<sup>4</sup> “Slicing the pie” is a tactical maneuver where an Officer uses a corner for protection and pivots around the apex of the corner slicing off greater fields of view.

<sup>5</sup> A tactical reload was done because Officer A was not aware of how many shots he had fired and how many rounds remained in his weapon. Officer A therefore reloaded his weapon because he felt (per his training) that a magazine with an unknown amount of round(s) wasn’t useful to him.

<sup>6</sup> This subject is now known to be Civilian 1, AKA Civilian 1.

<sup>7</sup> This subject is believed to be Civilian 2 running to his friend’s car after being shot by Subject 1.

the pie” as a tactical approach on a corner that allows an officer to see a greater angle of what’s around a corner before the officer physically enters that area. When asked about the shooting, Officer A stated that he never saw Subject 1 as he “sliced the pie.” It wasn’t until Officer A made a “quick peek” around the corner that he saw Subject 1 4 to 5 feet away. Officer A described Subject 1 as moving quickly westward on the sidewalk, “almost running.” Upon encountering each other, Officer A stated that Subject 1 had his right arm up with his gun up and began to pivot clockwise in Officer A’s direction. Officer A began to shoot as Subject 1’s weapon was pointed in Officer A’s direction. Subject 1’s body continued to turn and move westward. Officer A continued to shoot until Subject 1 went to the ground and the gun was dislodged. When pressed, Officer A maintained that he stopped shooting when the gun was “dislodged” diminishing the threat, but he could not recall the exact moment or position of Subject 1’s body when he released the gun, or if Subject 1 was potentially on the ground when any shots were fired by Officer A. (Atts. 108, 109)



**Figure 1** Based on Officer A’s statement with IPRA investigators, Figure 1 is an example of how Officer A used the “slicing the pie” tactic. As Officer A approached the end of the alley at 80<sup>th</sup> street, he pivoted around the corner of the building, using it as protection, as he sliced off greater fields of vision eastward down 80<sup>th</sup> street. This illustration is for demonstrative purposes only, and is not a representation of Officer A’s exact location or movement.

During his July 31, 2017 interview, Officer A also used a copy of a photograph taken by Evidence Technicians on the night of the shooting to clarify where he was standing during his encounter with Subject 1. The photograph copy presented to Officer A was taken from the vantage point of someone standing just north of the mouth of the alley at 80<sup>th</sup> Street and shows a southeast view from that location. When presented with the photograph, Officer A marked his location as to when he first encountered Subject 1, Subject 1’s location when they first encountered each other, and Subject 1’s body’s resting position after the shooting. The representation made by Officer A illustrated that he stood approximately five (5) feet from Subject 1 when he initially fired his weapon. (Atts. 110)

**IPRA interviewed witness Officer C** on August 25, 2014. Officer C stated that, on August 24, 2014, he and his partners (POs Officer B, Officer A, and Officer D) had just finished writing a parking ticket in the area of 79<sup>th</sup> Street and Drexel Avenue and were heading eastbound on 79<sup>th</sup> Street. The next block down (Ingleside Avenue), some citizens told Officer C's other three partners about a possible fight with guns. Officer C recalled Officer D calling in the possible fight over the radio, and then all four officers proceeded south down Ingleside Avenue. At mid-block Officer C saw Officer A take off running. He stated that, "... he was on the sidewalk and he starts headin' east on like in between two houses towards the alley." Officer C followed after Officer A and was approximately 20-30 feet behind Officer A. At the alley, Officer A ran south in the direction of one of the subjects and Officer C initially went north in the direction of a different suspect. Officer C immediately lost sight of the suspect he pursued after that suspect ducked into a backyard. Then, Officer C turned south down the alley and followed in Officer A's direction. As Officer C started to follow Officer A, Officer A was approximately 30-45 feet ahead when Officer C heard gunshots and saw two muzzle flashes directly ahead at the mouth of the alley at 80<sup>th</sup> Street. After the gunshots, Officer C observed Officer A about 50 feet ahead, against a wall, on the left side of the alley, running forward toward the mouth of the alley at 80<sup>th</sup> Street. Officer C described seeing Officer A, "[a]nd he like, he was originally huggin' the wall and he starts cuttin' the pie to try and like peek around the corner." Then, Officer C stated, "... I see a handgun and a[n] arm like pop out from the east side of the sidewalk, like the mouth of the alley." Officer C further described the gun as pointed right at Officer A. Officer A opened fire, at which point, "[t]he offender went to the ground," and "Officer A stopped shooting." Officer C stated that he initially saw the arm only, but the offender's entire body came into view as the offender moved from east to west at the mouth of the alley. Officer C then ran to the mouth of the alley and saw Officer B about 15 feet west standing next to a subject lying on the sidewalk just west of the alley mouth. Officer C does not believe he conversed with Officer A or the offender after the shooting. After the shooting, Officer C recalled the on-scene officers forming a barrier around the scene to protect it until other officers arrived. (Atts. 35)

**IPRA interviewed witness Officer B** on August 26, 2014. Officer B indicated that he was on foot patrol on August 24, 2014 with three other partners, Officer A, Officer D, and Officer C. Officer B and his partners were in the area of 79<sup>th</sup> Street and Ingleside Avenue finishing up writing a parking ticket when they were approached by unknown citizens and told, "something was gonna happen down at the end of the street." Officer B said that Officer A was the officer who spoke to the unknown citizens. Following this interaction, Officer B and his partners proceeded south down Ingleside Avenue. Officer A saw subjects walking down the alley, and Officer A and Officer C followed after them. Officer D and Officer B continued south on Ingleside Avenue towards 80<sup>th</sup> Street. Officer B recalled hearing gunshots soon after Officer A and Officer C went into the alley. In response to the shots, Officer B drew his gun and sprinted down Ingleside Avenue towards 80<sup>th</sup> Street in the direction of the gunshots. Upon reaching the corner, Officer B heard several additional gunshots coming from along the north sidewalk on 80<sup>th</sup> street towards the mouth of the alley between Ingleside Avenue and Ellis Avenue. Officer B "hugged" a wall on the northeast corner of 80<sup>th</sup> Street and Ingleside Avenue and peered around the corner looking east down 80<sup>th</sup> Street. From there, Officer B saw a African-American male subject lying on the ground about halfway down 80th Street towards the alley. Additionally, Officer B saw another African-American male subject lying on the ground at the mouth of the alley. Officer B proceed east down 80<sup>th</sup> towards the subject lying on the sidewalk. Upon reaching the subject, Officer B moved a gun

away from the subject for safety purposes. A few seconds later, Officer B saw Officer A emerge from the alley. Shortly thereafter, Officer B and his partners tried to secure a perimeter of the scene. Officer B did not visually witness any of the gunfire. (Atts. 37)

**IPRA interviewed witness Officer D** on August 26, 2014. Officer D was on routine foot patrol with his partners, POs Officer B, Officer A, and Officer C, on August 24, 2014, when they were flagged down by a couple of African-American females who indicated that there was a group of people “bout to fight” possibly with firearms. In response, all four officers proceeded southbound down Ingleside Avenue from 79<sup>th</sup> Street, and Officer D let dispatch know of their actions. Halfway down Ingleside Avenue, Officer D and his partners encountered a crowd of people. A few people broke away from the crowd and headed east down a gangway between some homes along the east side of Ingleside Avenue. Officer A and Officer C followed those who broke away, and Officer D and Officer B continued to proceed south on Ingleside Avenue. Approximately 2-3 houses from the corner of Ingleside Avenue and 80<sup>th</sup> Street, Officer D heard gunshots. Once Officer D turned the corner heading east on 80<sup>th</sup> Street, he saw two (2) individuals laying on the ground (one on the sidewalk and the other at the mouth of the alley) and Officer A coming out of the alley. Officer D met Officer B by a body on the sidewalk and Officer A called in the shooting. All four officers then worked on securing the scene. (Atts. 39)

### **Civilian Interviews**

**IPRA interviewed witness Civilian 2** (16 years old), in the presence of his mother (XXXXX XXXXXX), on August 25, 2014, at approximately 2:20am. Civilian 2 witnessed Subject 1 and an unknown other male having an argument on the night of August 24, 2014; he was unsure of the nature of the argument.<sup>8</sup> Civilian 2 described the unknown male as having dreadlocks, black, and slightly taller than Subject 1.<sup>9</sup> Civilian 2 just happened to walk up on their argument. As Civilian 2 walked away and turned the corner at 80<sup>th</sup> Street and Ingleside Avenue, Subject 1 and the unknown male “started shooting [presumably at each other].”<sup>10</sup> Civilian 2 described the shooting as taking place on 80<sup>th</sup> Street between Ellis Avenue and Ingleside Avenue by the alley. Civilian 2 recalled seeing the unknown male raise his gun, a revolver, first. In response, Subject 1 fled on foot as he shot at the unknown male. During the shooting, Civilian 2 was shot in the ankle and thigh by a couple of Subject 1’s shots as Subject 1 shot his weapon westward down 80<sup>th</sup> Street in the direction of the unknown male. After being shot, Civilian 2 took off running east towards Ellis Avenue, and also recalled turning around and seeing the unknown male on the ground with Subject 1 still standing. Civilian 2 reached the corner at 80<sup>th</sup> Street and Ellis Avenue where Civilian 2 got into a friend’s car and they drove to the hospital. Civilian 2 saw police in the area that night, but never saw any police shooting. (Atts. 48)

**IPRA interviewed witness Civilian 3** on August 29, 2014. Civilian 3 resides at XXXX South Ellis Avenue, which is on the corner of Ellis Avenue and 80<sup>th</sup> Street. Just before the shooting on August 24, 2014, Civilian 3 left her home and walked with her boyfriend Civilian 4 westward along the north sidewalk of 80th Street toward Ingleside Avenue. As they walked, they saw a group of “about nine boys” come around the corner from Ingleside Avenue and 80<sup>th</sup> Street and

<sup>8</sup> The unknown male is now known as Civilian 1, AKA Civilian 1.

<sup>9</sup> Per the postmortem examination Subject 1 was 5’5”.

<sup>10</sup> Lofton initially says he turns the corner at 80<sup>th</sup> and Ellis but corrects himself later in the interview.

head east towards them. As Civilian 3 and Civilian 4 passed the group at the mouth of the alley, Civilian 4 briefly stopped to speak with them in an attempt to defuse an argument that the group was having. Civilian 3 and Civilian 4 then continued on with their walk as the group continued to argue. Just as Civilian 3 and Civilian 4 walked away, someone in the group started shooting. Civilian 3 sustained two gunshot wounds – one in each of her legs. Civilian 4 was not injured. Civilian 3 knew some of the boys in the group, and specifically identified Civilian 1.<sup>11</sup> While Civilian 4 spoke to the group in his attempt to defuse their argument, Civilian 3 saw Civilian 1 exit a residence at XXX East 80<sup>th</sup> Street with a black revolver at his side, and join the argument. Soon after Civilian 1 joined the group argument, and as Civilian 3 and Civilian 4 walked away, Civilian 3 heard eight or nine gunshots, which she thought sounded like two different guns. After the gunshots ended, Civilian 4 picked up the injured Civilian 3 and carried her away. They went around the corner at Ingleside Avenue and 80<sup>th</sup> Street, and then north on Ingleside Avenue toward 79<sup>th</sup> Street. While on Ingleside, Civilian 3 and Civilian 4 encountered a group of police running with their guns out. An officer stopped and told Civilian 3 and Civilian 4 to sit and remain by the corner.<sup>12</sup> As Civilian 3 waited, she heard an additional nine gunshots, but she did not witness the shooting. Paramedics took Civilian 3 to Stroger Hospital. While there, she learned that Civilian 1 and Subject 1 were shot and deceased. (Atts. 33)

**IPRA interviewed Civilian 5**, the father of Subject 1 on August 11, 2017. Prior to the interview, Civilian 5 was contacted by IPRA and asked about a possible video taken after the shooting.<sup>13</sup> Civilian 5 confirmed that he was in possession of the video and agreed to provide a copy to IPRA. He also requested an opportunity to be interviewed by IPRA.

Prior to the start of his interview, Civilian 5 provided IPRA with a copy of the video, which was retrieved with Civilian 5's permission from his personal computer. Civilian 5 stated that he did not record the video, but that he had received it from an unnamed source. Civilian 5 declined to identify the individual who recorded the video because that person did not want to be involved in the investigation.

During his interview, Civilian 5 confirmed that he was not present during the August 24, 2014 shootings. Civilian 5 believes that he may be able to provide the names of witnesses who were present, but at the time of his interview he was only able to provide the name of one possible witness – Civilian 6.<sup>14</sup> In terms of the video, Civilian 5 explained that it shows Subject 1's body

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<sup>11</sup> During the interview Civilian 3 incorrectly misspells Civilian 1's first name as XXXXX. XXXXXX legal first name is XXXXX, but he goes by XXXXXX.

<sup>12</sup> Civilian 3 was unable to fully identify these officers; however, OEMC records showed a beat other than XXXXX (POs Officer A, Officer D, Officer B and Officer C's beat) called in for EMS for Civilian 3 and Civilian 4.

<sup>13</sup> Civilian 7 (Subject 1's grandmother) is in a YouTube video referencing a video recording of the incident. When contacted, Civilian 7 stated that the video still existed, that she personally never watched it, and Civilian 5 was in possession of the video. Investigators contacted Civilian 5 who requested the opportunity to make a statement concerning the shooting and agreed to provide the video. Civilian 5 agreed to meet with investigators at his home in Lafayette, Indiana.

<sup>14</sup> Civilian 5 provided Civilian 6's phone number. Contact was attempted with Civilian 6 multiple times via phone. Also, the number provided was reversed searched for possible addresses associated with Civilian 6. The search returned no results. Additionally, Civilian 8 (Subject 1's mother), who had no first-hand knowledge of the shooting, contacted IPRA investigators also indicating that Civilian 6 was a possible witness. Civilian 8 agreed to help IPRA investigators by reaching out to Civilian 6 and asking him to cooperate with the investigation. Despite Civilian 8's involvement, Civilian 6 was unresponsive to multiple attempts to contact him.

located in the alley and away from the body of Civilian 1. Civilian 5 believed that the location of their bodies is significant in the video because Subject 1's body was too far away from Civilian 1's body for Subject 1 to be standing over Civilian 1 when he was shot by the police, which is what Civilian 5 said was reported in the local media. Civilian 5 also pointed out that the medical examiner's report showed bullet fragments in Subject 1's clothes, and that those fragments proved that Subject 1 was shot when he was on the ground.<sup>15</sup> (Atts. 114)

### **Video Provided by Civilian 5**

A **Video of the Shooting Scene** was taken by an unknown female after the shooting occurred. A copy of this video was provided to IRPA investigators on August 11, 2017 by Subject 1's father, Civilian 5. The vantage point of the video is from the north side of 80<sup>th</sup>, just west of the shooting, and not at ground level but what appears to be the 3<sup>rd</sup> or 4<sup>th</sup> floor of a building. The video shows multiples officers at the location along with EMS. No ground level conversation is captured, but the unknown female recording the video can be heard commenting. Two bodies can be seen on the video. One of the bodies is located on the north sidewalk along 80<sup>th</sup> just west of the mouth of the alley.<sup>16</sup> This body is face-up with the head pointed towards the west and the feet towards the east. A second body is lying in the mouth of the alley.<sup>17</sup> This body is face-up with the head pointed towards the southwest and the feet towards the northeast. Also, an unknown dark shaped object can be observed in the alley next to the right hand of the second body.<sup>18</sup> (Atts. 112)

### **Documentary Evidence**

The file for the **Homicide Investigation under RD#s XXXXXXXX and XXXXXXXX by the CDP Detective Division** included multiple summaries of interviews and other documentation regarding the officer involved shooting and the homicide of Civilian 1. To follow is a summary of sections relevant to this investigation.

On August 24, 2014, within hours of the incident, **CPD responding detectives interviewed Officer A**. The information provided during Officer A's interview with CPD detectives was more specific than the information obtained during IPRA's interviews of Officer A. Specifically, Officer A's sequence of the shooting was provided with greater detail. The detectives' summary report stated:

. . . as [Officer A] turned the corner he observed Subject 1 standing within 5 feet from him. Officer A stated that he observed Subject 1 look in his direction, pivot north towards his position, facing him, and point a handgun at him. Officer A stated that he feared for the safety of his life. Officer A stated that he began to fire his handgun at Subject 1 who began to flee in front of Officer A in a westbound direction towards the mouth of the alley. Officer A stated that he continued to fire his handgun at Subject 1. Officer A stated that Subject 1 then

<sup>15</sup> Both of these concerns are directly addressed in the conclusion of this Report.

<sup>16</sup> This is now known to be the body of Civilian 1.

<sup>17</sup> This is now known to be the body of Subject 1.

<sup>18</sup> This dark object is best observed at approximately 0:45 through 0:52 during the recording.

collapsed in the middle of the alley. Officer A stated that he ceased firing when Subject 1's gun dislodged from his hand the threat of being shot had been neutralized.

On August 24, 2014, within hours of the incident, **CPD responding detectives interviewed Officer C**. Officer C's interview was consistent with the information he provided to IPRA. Officer C was the only known witness to the officer-involved shooting. The detectives' summary stated:

... when [Officer C] reached the garage located at XXXX [south] Ellis he observed a subject nka, Subject 1, pointing a handgun at Officer A. Officer C stated that he observed Subject 1 point a handgun at Officer A while Subject 1 was standing in the mouth of the alley by the east sidewalk, pointing the gun north at Officer A. Officer C stated that Subject 1 was approximately 2-3 feet away from Officer A when Subject 1 was pointing the handgun at Officer A. Officer C stated that he observed Officer A discharge his weapon at Subject 1 approximately 5-6 times. Officer C stated that he then observed Subject 1 on the ground with a semi-automatic handgun on the ground next to Subject 1.

On August 24, 2014, within hours of the incident, **CPD responding detectives interviewed Officer B**. Officer B's interview was consistent with the information he provided to IPRA.

On August 24, 2014, within hours of the incident, **CPD responding detectives interviewed Officer D**. Officer D's interview was consistent with the information he provided to IPRA. The only additional information in CPD's report was that Officer D stated that he saw an African-American male carrying an African-American female whom got shot in the left thigh.<sup>19</sup> Officer D observed this at the corner of 80<sup>th</sup> Street and Ingleside Avenue.

On August 24, 2014, within hours of the incident, **CPD responding detectives interviewed civilian witness Civilian 3**. Civilian 3's interview was generally consistent with the information she provided to IPRA.

On August 24, 2014, within hours of the incident, **CPD responding detectives interviewed Civilian 4**. The detectives' summary indicated the following: Civilian 4 stated that he and his girlfriend were walking from 80<sup>th</sup> Street and Ellis Avenue and heading eastbound but never made it to Ingleside. Civilian 4 indicated that "everyone just started shooting," that he heard approximately ten (10) gunshots, never saw who was shooting, and that he discovered that his girlfriend was shot. Civilian 4 carried his girlfriend to the corner and recalled seeing 1 or 2 people on the ground as he carried her away. At some

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<sup>19</sup> This is most likely Civilian 4 carrying Civilian 3 away from the shooting.

point, Civilian 4 saw police running past them (him and his girlfriend), and then heard approximately 20 gunshots.

On August 24, 2014, within hours of the incident, **CPD responding detectives interviewed Civilian 2**. Civilian 2's interview was generally consistent with the information he provided to IPRA, with the following additional details provided: Civilian 2 stated that he was walking with his cousin Civilian 9 that evening. Civilian 2 saw Subject 1 arguing with Civilian 1 and he overheard both of them saying that they were going to kill or shoot each other. Civilian 2 indicated that he walked behind Civilian 1 and that Subject 1 started shooting at Civilian 1. Civilian 2 stated that he was shot by Subject 1. After being shot, Civilian 2 ran across the street and fell to the ground, where a girl named "XXXXXXX" picked him up and drove him to the hospital.

On August 24, 2014, within hours of the incident, **CPD responding detectives interviewed Civilian 10 (Civilian 10)**. The detectives' summary indicated the following: Civilian 10 stated that he was standing south of 80<sup>th</sup> Street on Ingleside and smoking marijuana with "Civilian 11", Civilian 11's brother, and about 10 others. Civilian 10's heard an argument further down the block on Ingleside. Civilian 10 started to walk down Ingleside towards 79<sup>th</sup> Street where he heard 7 to 8 gun shots. Civilian 10 then ran into a backyard and laid down by a car, where he was found by police.

On August 24, 2014, within hours of the incident, **CPD responding detectives interviewed Civilian 12 (Civilian 12)**. The detectives' summary indicated the following: Civilian 12 stated that he was standing in the middle of the block smoking weed with Civilian 1. Civilian 12 observed Civilian 1 walk off toward his house at XXX-XXX East 80<sup>th</sup> Street. Civilian 12 followed Civilian 1 who stated, "watch out they have guns." Civilian 1 then pushed Civilian 12 inside the hallway at XXX-XXX East 80<sup>th</sup> Street. Civilian 12 then heard gunshots outside and hid in the hallway until police found him.

**CPD witnessed the recovery of Officer A's magazine.** Officer A stated that his magazine and firearm were fully loaded with 17 live rounds before the incident occurred. Officer A's magazine, which was ejected for a tactical reload, was recovered with 5 live rounds.

**CPD witnessed the recovery of Subject 1's firearm.** Subject 1's firearm was recovered in the slide-lock position with both the firearm and magazine empty. The magazine had a 7-round capacity.

**CPD witnessed the recovery of Civilian 1's firearm.** Civilian 1's firearm, a revolver, had a capacity of 9 rounds. The firearm was recovered with 6 rounds.

The day after the shooting, **a third firearm was recovered** from the area. A 911 call was received reporting a gun found in the 3<sup>rd</sup> floor hallway at XXX East 80<sup>th</sup> Street.

Evidence Technicians responded and recovered the firearm, a Davis Industries, Model P-32, a semi-automatic pistol.<sup>20</sup>

CPD detectives conducted a **Canvass** following the shooting, which resulted in multiple individuals living along 80<sup>th</sup> Street and Ingleside Avenue being contacted. Collectively, the people contacted recalled hearing gunshots, saw a body or bodies on the ground, saw police in the area, heard an argument or commotion, saw people running, or saw nothing at all.<sup>21</sup> The canvass revealed no witness to either the shooting by Subject 1 or the subsequent shooting by Officer A.

**Other Documents in the Homicide File** generally documented the incident. Personal and descriptive information as to the victims and offenders was recorded. Brief descriptions of injuries sustained and the weapons used were also recorded. The names and star numbers of command staff, assisting officers, and forensic investigators on scene were noted. A brief description of the scene and the investigation steps taken was also provided. Subject 1's body position was documented as located in the mouth of the alley on 80<sup>th</sup> Street, lying face up, with his head pointing west, and his feet pointing east. (Atts. 106, 107)

**A Tactical Response Report completed by Officer A** indicated that subject, Subject 1, was presented with an imminent threat of battery and was likely to cause great bodily harm with a weapon. In a standing position, Officer A responded with 11 shots from his firearm – a department issued Springfield Armory XD 9mm serial # XXXXXXXX. Officer A's firearm was reloaded during the incident, a tactical magazine exchange. The subject was shot at a distance of 0 to 5 feet. (Atts. 8)

**An Officers Battery Report completed by Officer A** indicated information which was consistent with the Tactical Response Report completed by him. Additionally, the report indicated that good artificial light prevailed and that the subject, Subject 1, threatened with a 9mm weapon point at Officer A. (Atts. 9)

**Department Reports** documented the incident under RD# XXXXXXXX.<sup>22</sup> These reports showed Subject 1 as the offender in an aggravated battery with a handgun and listed Officer A, Civilian 2, Civilian 3, and Civilian 1 all as victims. The reports documented personal and contact information for the offender and victims, and also listed responding personnel at the incident. (Atts. 6)

**Various Drug Test Documents** showed that Officer A supplied a urine sample at 01:39 on 25-AUG-2017 and a breath sample at 01:49 on the same day. Tests of both samples resulted in a Blood Alcohol level of .0000. (Atts. 50 – 61)

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<sup>20</sup> An expended shell casing from this firearm was recovered at the scene of the shooting. See summary of ISP Forensic reports below.

<sup>21</sup> Anywhere from 4 or 5 to 15 or 20 gun shots were recalled.

<sup>22</sup> These documents included the Original Case Incident Report and a Case Supplementary Report.

The **Chicago Fire Department Ambulance Report** documented that Subject 1 was found lying on the ground with multiple gunshot wounds to the back, left arm, and right leg. A semi-automatic pistol was noted as lying on the ground beside Subject 1. (Atts. 18)

**OEMC GPS Reports** showed multiple emergency vehicles coming to the area. Specifically, the reports show many vehicles within a thousand foot radius of XXX East 80<sup>th</sup> Street between the 20:45:00 on 24-AUG-2014 and 21:30:00 on 24-AUG-2014. This influx of vehicles to the area was consistent with OEMC communication, which requested assistance following the shooting incident. (Atts. 21)

### **Medical Records**

The **Office of the Medical Examiner (M.E.) Report of Postmortem Examination for Subject 1, M.E. Case #XXXX – 00205, by Doctor A, MD**, documented that Subject 1 had an entrance gunshot wound to his posterolateral left deltoid region (upper arm). The projectile exited through the medial triceps region. The bullet reentered the left side of the chest. A medium caliber, jacketed, copper-colored bullet was recovered from the right chest cavity.

A second entrance gunshot wound was noted on the left side of Subject 1's chest. The projectile exited the skin on the left mid back. It did not enter the chest cavity. A medium caliber, jacketed, copper-colored bullet was recovered from the shirt. The bullet path was directly left to right, front to back, and upward.

A third entrance gunshot wound was noted on the lateral left upper back of Subject 1. The projectile created a path of contusion prior to lodging in the medial left upper back. Three large fragments of copper-colored jacket and bullet core were recovered. There was no exit wound.

A fourth entrance gunshot wound was noted on the right posterior hip of Subject 1. The projectile exited the skin through the right upper thigh. A medium caliber, jacketed, copper-colored bullet was recovered from the shorts.

A fifth entrance gunshot wound was noted on the lower right thigh of Subject 1. The projectile did not exit and fractured the femur. A medium caliber, jacketed, copper-colored bullet was recovered adjacent to the medial fractured femur.

A sixth entrance gunshot wound was noted to the upper left thigh of Subject 1. The projectile did not exit and fractured the left ileum. A medium caliber, jacketed, copper-colored bullet was recovered from the left buttock.

A seventh entrance gunshot wound was noted to the right groin of Subject 1. The projectile perforated the bladder. An oxidized, medium caliber bullet was recovered free-floating in the pelvic cavity.

An eighth entrance gunshot sound was noted to the left upper quadrant of the abdomen of Subject 1. There was not exit wound. A medium caliber, jacketed, copper-colored bullet was recovered from the left side of the 11<sup>th</sup> thoracic vertebral body.

A ninth entrance gunshot wound was noted to the lower lateral left chest. There was no exit wound. A partially oxidized, medium caliber, jacketed bullet was recovered from the ilium.

A tenth graze gunshot wound was noted to the left lower back. A medium caliber, jacketed, copper-colored bullet was recovered from the shirt.

An examination of the skin surrounding all of the wounds revealed no evidence of close-range firing. The toxicology report documented that Subject 1 tested negative for ethanol, opiates, and benzoyllecgonine. The cause of death was multiple gunshot wounds and the manner of death was homicide. (Atts. 67)

**The Office of the Medical Examiner (M.E.) Report of Postmortem Examination for Civilian 1, M.E. Case #XXXX – XXXXX, by Doctor B, MD**, documented that Civilian 1 had an entrance gunshot wound to his head. The projectile exited through the right eye. No projectile was recovered.

A second entrance gunshot wound was noted to the lateral right side of the chest of Civilian 1. The projectile did not exit the body. A deformed copper-colored, metal-jacketed, medium caliber bullet was recovered from the right shoulder.

An examination of the skin surrounding all of the wounds revealed no evidence of close-range firing. The toxicology report documented that Civilian 1 tested negative for ethanol, opiates, and benzoyllecgonine. The cause of death was multiple gunshot wounds and the manner of death was homicide.

Photos were taken by the Medical Examiner of the gunshot wounds sustained by Subject 1 and Civilian 1. A series of photo shows each of the wounds to each subject and other physical characteristics. Subject 1 is shown wearing a green sweatshirt in the photos. (Atts. 68)

**Medical Records of Subject 1** indicated that Subject 1 arrived at Jackson Park Hospital at 23:40 and was pronounced dead by Doctor C at 23:40. No attempts to revive Subject 1 were documented. (Atts. 104)

### **Audio and Video Evidence**

The **Crime Scene Video** taken by Evidence Techs after the shooting showed the following: an overall scan of the scene, both up close and far away, where one can view multiple police officers as well as an ambulance on the scene. Close-up footage of bullet casing evidence found with Crime Scene Markers (CSM). Close-up footage of where the subject was shot and the evidence around that area, including two firearms. Different angle views of the scene and around the scene showing where CSMs are located. A walk through of the alley.

The **Office of Emergency Management and Communication (OEMC) Event Queries** and **Police Radio Transmissions** were collected and made part of this case file. The following is a summary of the relevant audio recordings.

- **20:57:27**, an individual called 911 and asked them to send police down to 79<sup>th</sup> Street and Ingleside Avenue because there was a group of boys trying to get something started. The operator asked what they were doing exactly and the individual explained that she was watching them argue and say that they are going to do things. The individual asks for the police to be sent right away.
- **20:56:48**, an individual called 911 from XXXX Ingleside Avenue stating that there were a bunch of young adults with guns on the street. The individual states that she saw about three or four guns. The operator asked for the individual to give a description of the young adults with guns and the individual stated that they were black males all wearing similar clothes, dark hoodies and blue jeans. At the end of the call the individual states, “They are shooting now, don’t you hear it?”
- **21:00:07**, an individual called 911 reporting that there were about seven gun shots in the area. The individual was calling from XXXX Ellis Street.
- **21:00:01**, an individual called 911 reporting that there were shots fired in the vicinity of 80<sup>th</sup> Street and Drexel Avenue. They stated that there were about 8-16 shots fired with a semi-automatic weapon.
- **21:00:38**, an individual called 911 reporting that she called earlier about a situation with guns and now there have been about ten gunshots coming from the street of 79th Street and Ingleside Avenue.
- **21:00:38**, an individual called 911 reporting that she heard shots fired outside near 79<sup>th</sup> Street and Ingleside Avenue.
- **21:03:03**, an individual called 911 reporting that there has been a shooting outside of XXX East 80<sup>th</sup> Street. The individual stated that no police had gotten there yet and that there were two people just lying out there.
- **21:05:44**, a public safety officer called 911 asking for a squad car to come out to 78<sup>th</sup> Street and Ellis Avenue for a 16 year old gunshot victim. The victim’s name was said to be Civilian 2.
- **21:55:18**, an individual called 911 asking for the location of where an ambulance was headed to.
- **21:55:51**, an individual called the fire department asking where the ambulance from 79<sup>th</sup> Street and Ingleside Avenue was going to locate her nephew. The operator stated that one was going to Cook County and the other one was going to Jackson Park.
- **05:28:26**, an individual from Stroger Hospital called to notify the death of Civilian 1. The death might have occurred in the ambulance, the individual has to call back to confirm.
- **05:38:35**, an individual from Stroger Hospital called back to confirm where the death occurred in the hospital. The individual stated that they cannot find the run sheets. The call was cut off.
- **05:39:36**, this was a continuation of the last call from an individual from Stroger Hospital. This call was with the fire department to get the information of where the deceased individual, Civilian 1, came from. The fire department stated that the ambulance picked up the individual from XXXX S. Ingleside Avenue. It was stated that the deceased individual was 22 years old.
- **08:32:09**, an individual called 911 to report finding a gun in his doorway. The individual explained that there was a shooting the night before in front of his apartment, XXX E. 80<sup>th</sup> Street, and that the police told them not to leave their house. The individual lives on the

third floor of his apartment building and found the gun outside of his doorway on the third floor. The operator asked if the building is locked, the individual said yes and that the individual who died in the shooting lived on the second floor of that apartment building. (Atts. 69 – 88)

**Police Radio transmissions** document that 250 Charlie stated that there is something going on at 79<sup>th</sup> and Ingleside with individuals and guns. 4511 Squad stated that they were just out there but will go back and check it out. About a minute after this someone states, “250 Charlie emergency, 250 Charlie emergency, we got shots fired by police and subject, we’re at 80<sup>th</sup> Street and Ingleside Avenue, subject is down.” The dispatcher confirms this information over the radio. Unidentified squad explains that they are at XXXX Ingleside Avenue and that one is down. 211 Davis stated that they were on their way. The dispatcher tells everyone to keep the air clear and to head over to 80<sup>th</sup> Street and Ingleside Avenue. 4511 states that there are two civilians down and that there are no police officers down. There is mention of needing two EMS vehicles on 80<sup>th</sup> Street between Ingleside and Ellis Avenue. The dispatcher asks 624 to head over to 80<sup>th</sup> Street and Ingleside Avenue to help control traffic. The dispatcher asks 623 to also handle the traffic control at 80<sup>th</sup> Street and Ingleside Avenue and requests another car to control traffic at 80<sup>th</sup> Street and Ellis Avenue. (Atts. 69 – 88)

**OEMC POD Camera Footage from POD #XXXX** did not capture any video footage relevant to the actual shooting incident. POD #XXXX was mounted to a utility pole located at the northwest corner of the intersection of 79<sup>th</sup> Street and Ingleside Avenue. This location put the POD over a block away from the officer involved shooting incident with various natural and man-made obstructions in the way. (Atts. 65)

### **Forensic Evidence**

According to the **Crime Scene Processing Report**, multiple firearms and shell casings were recovered from the scene. Seven (7) Winchester 9mm Luger +P shell casings were recovered from the alley. An additional seven (7) FC NT 9mm Luger shell casings were recovered from the mouth of the alley and surrounding sidewalk area. Finally, a single FC 32 Auto shell casing was recovered from the parkway-walkway. A Kel-Tec, PF-9, 9mm semi-automatic pistol, was found in the slide-lock position with an empty chamber and recovered from the mouth of the alley. A Springfield Armory, Model XD-9, 9mm semi-automatic pistol, with a fully loaded 16 round magazine, was recovered from Officer A. A partly expended 16 round magazine was recovered from the mouth of the alley. A Hi-Standard Sentinel, 22 caliber revolver, was recovered from the sidewalk. Finally, a Davis Industries, Model P-32, semi-automatic pistol was recovered from the third floor stairwell directly in front of the entrance to a third floor apartment at XXX East 80<sup>th</sup> Street. All of the above mentioned articles of evidence were marked with crime scene markers and then photographed along with general photographs of the scene. Evidence Techs then relocated to Jackson Park Hospital and Stroger Hospital where they photographed the injuries of Civilian 1 and Subject 1. (Atts. 25 – 27)

The **Crime Scene Photographs** represented the scene of the shooting from various vantage points. Photographs were taken of the north sidewalk along 80<sup>th</sup> Street between Ingleside Avenue and Ellis Avenue, the mouth of the alley, the alley, and the gangway that Officer A and Officer C

ran through. Crime scene markers are clearly visible in many of the photographs and show the locations of recovered evidence, including but not limited to: 16 individual shell casings, three firearms, a gun magazine, and blood. (Atts. 62)

**Illinois State Police (ISP) Forensic Science Laboratory Reports**, Case # XXX-XXXXXXX, document the examination and results of Ballistic and Gunshot Residue evidence as received and tested.

Laboratory results dated June 4, 2014 document that the firearms tested were found to be in proper firing condition.

It was documented that a total of seven (7) fired cartridges, Exhibit #3 (Winchester 9mm Lugar +P cartridges), were determined to be fired from Exhibit #14 (A Springfield Armory, Model XD-9, 9mm Lugar semiautomatic pistol), Officer A's weapon.

It was documented that a total of eight (8) fired cartridges, Exhibit #4 (Federal 9 mm Lugar cartridges), were determined to be fired from Exhibit #8 (A Kel-Tec, Model PF-9, 9mm Lugar semi-automatic pistol).

It was documented that a single fired cartridge, Exhibit #5 (Federal 32 Auto cartridge), was determined to be fired from Exhibit #10 (A Davis Industries, Model P-32, 32 semi-automatic pistol).

It was documented that a single fired cartridge, Exhibit #5 (Federal 32 Auto cartridge), was determined to be fired from Exhibit #10 (A Davis Industries, Model P-32, 32 semi-automatic pistol).

It was documented that a Gunshot Residue Kit recovered from Subject 1 was examined by scanning electron microscopy for the presence of gunshot residue particles. Tested samples were taken from the back of Subject 1's left and right hands. The report concluded that Subject 1 discharged a firearm, contacted a primer gunshot particle related item, or had his left hand in the environment of a discharged firearm. (Atts 97 – 99)

## ANALYSIS

### I. INTRODUCTION

This investigation requires the reconciliation of two competing principles eloquently outlined in a recent U.S. District Court opinion in a civil matter involving a similar officer-involved shooting incident:

“[A] person has a constitutional right not to be shot unless an officer reasonably believes that he poses a threat to the officer or someone else.” (citing *Weinmann v. McClone*, 787 F.3d 444, 450 (7th Cir. 2015) for “distilling this rule” from *Graham v. Connor*, 490 U.S. 386, 388 (1989) and *Tennessee v. Garner*, 471 U.S. 1, 11–12 (1985)). “On the other hand, police officers have a right to protect themselves, even when they do something risky like “pursu[ing] a fleeing felon into a dark alley.”” (citing *Estate of Starks v. Enyart*, 5 F.3d 230, 233-34 (7th Cir. 1993)).

### II. APPLICABLE LAW AND POLICY

The applicable Chicago Police Department General Order is 03-02-03, III, which states that a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. To prevent death or great bodily harm to the sworn member or to another person, or;
2. To prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
  - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
  - b. is attempting to escape by use of a deadly weapon or;
  - c. otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

An officer’s ability to confront dangerous situations and use deadly force is further codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person. . . .

When applying the Constitutional standard to a situation, the question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham*, 490 U.S. at 397; see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer's use of force is objectively reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) whether he is actively resisting arrest or attempting to evade arrest by flight." *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). This reasonableness calculation "must embody allowance for the fact that police officers are often forced to make split second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham*, 490 U.S. at 396-97.

Consequently, "when an officer believes that a suspect's actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force." *Muhammed v. City of Chicago*, 316 F.3d 380, 383 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (*en banc*) (omitting emphasis)). The analysis of the reasonableness of an officer's conduct must be grounded in the perspective of "a reasonable officer on the scene, rather than with the 20/20 vision of hindsight" and "allow for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014), quoting *Tennessee*, 471 U.S. at 1, internal quotation marks omitted.

### **III. ANALYSIS OF THE EVIDENCE**

Based on the totality of the circumstances, Officer A's use of deadly force was reasonable and within CPD policy. It is more likely than not that Subject 1 presented an imminent threat of death or bodily harm to Officer A because Subject 1 had just discharged a firearm in close proximity to Officer A and then turned in Officer A's direction with a firearm still in his hand. The use of deadly force by Officer A against Subject 1 was objectively reasonable and, therefore, within bounds of Illinois State Law and CPD Policy as outlined by the CPD Deadly Force General Order 03-02-03, II. Furthermore, Officer A's use of force also complied with the applicable constitutional standard.

Illinois State Law, CPD policy, and the United States Constitution all require that an officer's use of force is reasonable. A preponderance of evidence shows that Officer A reasonably believed that deadly force was necessary to prevent death or bodily harm to himself and possibly others. Officer A was faced with a rapidly evolving situation which increasingly progressed to the point where Officer A found himself in the position of making a split second decision to use deadly force. First, Officer A was responding to a situation reported to be a possible fight with guns. Second, Officer A observed Subject 1 fire his weapon multiple times seconds before the officer-involved shooting. Third, Officer A encountered Subject 1 face-to-face when Subject 1 was armed with a gun. Fourth, Subject 1, with a gun still in his hand, pivots and moves in Officer A's direction. Finally, Officer A fired his weapon at Subject 1 and continues to shoot as Subject 1

continued to maintain control over his weapon. Each of these specific points is discussed in further detail below.

**1.) Officer A responded to a situation reported to be a possible fight with guns.**

Illinois law undoubtedly provides that an officer is not required to retreat from dangerous situations. In fact, the investigation of dangerous situations and the mitigation of that danger are required of all police officers as part of their job. On the evening of August 24, 2014, Officer A found himself investigating such a situation when an unknown citizen informed Officer A of a possible fight with guns in the location of Ingleside Avenue. Officer A and his partners (POs Officer B, Officer D, and Officer C) headed towards the reported fight down Ingleside. Additionally, multiple calls were received by 911 which indicated a possible altercation was about to happen in the area with guns. Officer A is unaware of these calls to 911, but the calls do independently show that others in the area that night found the danger real. These multiple calls to 911 clearly show that others in the area that evening were concerned about a possible altercation with guns. This number of calls to police, via 911 and in person to Officer A and his partners, shows how reasonable it would have been for Officer A to believe he was heading into a dangerous situation.

**2.) Officer A observed Subject 1 fire his gun multiple times.**

Through multiple interviews (one with CPD detectives and two with IPRA investigators for Officer A, and one with CPD detectives and one with IPRA investigators for Officer C) Officer A and Officer C consistently maintained that they observed muzzle flashes at the mouth of the alley and heard gun shots emanating from the same location. Officer A saw Subject 1 shoot his weapon westward and back pedal eastward through the mouth of the alley. Again, Officer A did not retreat, but proceeded towards Subject 1. Furthermore, shell casings from Subject 1's gun were recovered from the mouth of the alley and the sidewalk just east of the alley, which corroborate both officers account of the shooting. At this point, it's a reasonable thought for Officer A to believe he was heading towards an individual who posed a threat to shoot with an operable, loaded firearm, that he already demonstrated he was willing to fire.

**3.) Officer A came face to face with Subject 1, who was still armed.**

At the end of the alley Officer A and Subject 1 encounter each other in close proximity. By Officer A's account, Subject 1 is 5 feet away – a few feet beyond arms reach. The marked photograph by Officer A visually shows just how close this encounter was. Officer C, who also observes this encounter, describes Subject 1 as being only a few feet from Officer A. By both accounts Officer A is literally close enough to have a casual conversation with Subject 1. Add to this situation the fact that Officer A just saw Subject 1 shooting seconds before, and the fact that Subject 1 still has a gun in his hand, and it becomes categorically reasonable for Officer A to fear an imminent threat against his life. However, Officer A does not shoot at this approximate moment.

**4.) Subject 1, with a gun still in his hand, pivots in Officer A's direction.**

Upon encounter, Officer A described Subject 1's actions as moving fast to the west, through the mouth of the alley, and pivoting (clockwise) in Officer A's direction. Officer A and Officer C both describe Subject 1's weapon as pointed in Officer A's direction. Officer A and Officer C are unequivocal about the gun still in Subject 1's hand. At this point, it's categorically reasonable for Officer A to fear an imminent threat against his life.

**5.) Officer A fired his weapon at Subject 1 and continued to shoot as Subject 1 continues to exhibit control over his weapon.**

Officer A couldn't recall during his second interview with IPRA when the gun fell from Subject 1's hand, but during his interview with CPD detectives, which was the night of the shooting, Officer A indicated that he stopped shooting once Subject 1 went to the ground and released the gun. This fact is also supported by other independent facts and observations. First, the gun was recovered in close proximity to Subject 1 – a fact recorded on EMS run sheets, the detective's Homicide Investigation report, crime scene processing reports, and attested to by Officer C in his interview with CPD detectives. Moreover, Officer C, who observed the shooting from behind Officer A, described the incident as Officer A does. With the gun in Subject 1's hand, it's still possible for Subject 1 to shoot regardless if he's standing up or if he's on ground. Based on the forgoing, it was reasonable for Officer A to fear for his life and continue to shoot Subject 1 as he moved with the gun in his hand through the mouth of the alley and to the ground.

**Officer A's Use of Force was Reasonable Under the Circumstances**

While Officer A's initial decision to use deadly force may be reasonable, an analysis of Officer A's decision to shoot does not end there. It is important to consider whether the threat Subject 1 represented continued after Officer A began shooting thereby warranting the eleven shots fired. *See Abbott v. Sangamon County*, 705 F.3d 706, \*HN 56 (7th Cir. 2013) (holding that it is well established that police officers cannot continue to use force once a subject no longer poses a threat). It is a fact that Subject 1 was shot multiple times and received 10 different gunshot wounds – medical records and the post mortem examination clearly document the gunshot wounds. Additionally, photographs taken during the post mortem examination of Subject 1 do show bullet fragments embedded into the back of Subject 1's shirt, which one could argue are the result of Subject 1 being shot while he was on the ground.

Without determining if Subject 1 was or was not on the ground at some point during the shooting, it is possible to determine if shooting while Subject 1 was on the ground would be reasonable. Officer A, in multiple interviews, clearly maintains that he continued to shoot until the threat was eliminated. Additionally, Officer A stated the threat was eliminated when Subject 1 released the gun. These statements show that Officer A became focused on Subject 1's gun, and, that Subject 1's control of his weapon was a determining factor for Officer A. Officer A evaluated the threat against him irrespective of the position of Subject 1's body. The shooting was a rapidly evolving sequence of events. During that sequence it would be difficult for Officer A to determine how many times he fired his weapon, how many of his shots hit Subject 1, or if Subject 1 was capable of returning fire. Furthermore, with control over his weapon, Subject 1 could have shot Officer A regardless if Subject 1 was on the ground or not, and therefore, could have still posed a

threat to Officer A. Based on the foregoing, it was objectively reasonable for Officer A to focus on the release of Subject 1's gun when evaluating the threat. Therefore, it was objectively reasonable for Officer A to continue to shoot until Subject 1 released his weapon, and, thus, eliminating the threat.

### **Finding**

CPD's policy on deadly force allows an officer to use deadly force to prevent death or great bodily harm to himself or to another person. In other words, Officer A does not have to wait for Subject 1 to shoot. Instead, Officer A can take reasonable action proactively to prevent death or bodily harm to himself or others, which is what Officer A did.<sup>23</sup>

Based on the foregoing, IPRA finds that Officer A's belief that Subject 1 presented an imminent threat was objectively reasonable and that Officer A was entitled to use deadly force against Subject 1. Moreover, IPRA finds that an officer with similar training and experience as Officer A would reasonably believe that Subject 1 posed an immediate threat of death or serious bodily harm. Therefore, IPRA finds that the use of deadly force by Officer A was objectively reasonable as outlined by the Chicago Police Department's General Order 03-02-03, III; and the Illinois State statute. Officer A's use of force also complied with the Fourth Amendment.

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<sup>23</sup> *Leong v. City of Detroit*, 151 F.Supp.2d 858 (E.D.Mich.2001) (holding that regardless of whether the suspect actually pointed his gun at the officers, or instead remained with his back turned, he was quite capable of leveling this weapon at an officer or bystander and inflicting severe injury or death in an instant and therefore the use of deadly force was permitted; *Anderson v. Russell*, 247 F.3d 125 (4th Cir.2001) (holding that an officer does not have to wait until a gun is pointed at the officer before the officer is entitled to take action.)